

Union Calendar No. 468

117TH CONGRESS
2^D SESSION

H. R. 6577

[Report No. 117-649, Part I]

To establish, under article I of the Constitution of the United States, a court of record to be known as the United States Immigration Courts.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2022

Ms. LOFGREN (for herself, Mr. NADLER, and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

DECEMBER 20, 2022

Additional sponsors: Mr. CORREA, Ms. ROSS, Mr. MCGOVERN, Ms. NORTON, Ms. SCHAKOWSKY, Ms. BROWNLEY, Ms. ROYBAL-ALLARD, Mr. TAKANO, Mr. ESPAILLAT, Ms. JAYAPAL, Mr. SMITH of Washington, Ms. MENG, Ms. OCASIO-CORTEZ, Ms. OMAR, Ms. ESHOO, Ms. SÁNCHEZ, Mrs. DINGELL, Mr. JONES, Ms. PRESSLEY, Ms. VELÁZQUEZ, Mrs. CHERFILUS-McCORMICK, Mr. DANNY K. DAVIS of Illinois, Mr. GARCÍA of Illinois, Ms. PORTER, Mr. GRIJALVA, Mr. RASKIN, Mr. NEGUSE, Mr. VARGAS, Mrs. WATSON COLEMAN, Mr. DESAULNIER, Ms. NEWMAN, Ms. CLARKE of New York, Mrs. TORRES of California, Mr. PERLMUTTER, Mr. LOWENTHAL, Mr. STANTON, Mr. CARSON, Ms. BOURDEAUX, Mr. CICILLINE, Mr. POCAN, Mr. AGUILAR, Ms. JACKSON LEE, Mr. YARMUTH, Mr. PALLONE, Ms. BASS, Mrs. MCBATH, Ms. SCANLON, Mr. CLEAVER, Mr. PETERS, Mr. EVANS, Ms. JACOBS of California, Mr. SOTO, Mrs. FLETCHER, Mr. KAHELE, Mr. WELCH, Mr. FOSTER, and Mr. TORRES of New York

DECEMBER 20, 2022

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 20, 2022

Committee on the Budget discharged; committed to the Committee of the
Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 3, 2022]

A BILL

To establish, under article I of the Constitution of the United
States, a court of record to be known as the United
States Immigration Courts.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“Real Courts, Rule of Law Act of 2022”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title; table of contents.

Sec. 2. Establishment and structure of the United States Immigration Courts.

Sec. 3. Employees.

Sec. 4. Budget and expenditures.

Sec. 5. Annual report.

Sec. 6. Application date; transitional provisions.

Sec. 7. Institutional transfer; continuity of proceedings.

Sec. 8. Review by the Judicial Conference; consultation requirements.

Sec. 9. Technical and conforming provisions.

8 **SEC. 2. ESTABLISHMENT AND STRUCTURE OF THE UNITED**
 9 **STATES IMMIGRATION COURTS.**

10 (a) *UNITED STATES IMMIGRATION COURTS.*—*The Im-*
 11 *migration and Nationality Act (8 U.S.C. 1101 et seq.) is*
 12 *amended by adding at the end the following:*

13 **“TITLE VI—UNITED STATES**
 14 **IMMIGRATION COURTS**
 15 **“Subtitle A—Organization and**
 16 **Jurisdiction**

17 **“SEC. 601. ESTABLISHMENT AND STRUCTURE.**

18 **“(a) ESTABLISHMENT.**—

19 **“(1) IN GENERAL.**—*There is established, under*
 20 *article I of the Constitution of the United States, a*
 21 *system of courts of record to be known as the United*

1 *States Immigration Courts (referred to in this Act as*
2 *the ‘Immigration Courts’). Each such court of record*
3 *may be referred to as an ‘immigration court’. The*
4 *Immigration Courts is not an agency of, and shall be*
5 *independent of, the executive branch of the Govern-*
6 *ment.*

7 “(2) *DIVISIONS.*—*The Immigration Courts shall*
8 *consist of an appellate division, a trial division, and*
9 *an administrative division.*

10 “(3) *COURT OFFICES.*—*The principal office of*
11 *the Immigration Courts shall be in the Washington,*
12 *DC, metropolitan area, but any immigration court*
13 *may sit at any place within the United States.*

14 “(4) *COURT SEAL.*—*The Immigration Courts*
15 *shall have a seal which shall be judicially noticed.*

16 “(b) *APPELLATE DIVISION.*—

17 “(1) *IN GENERAL.*—*The appellate division of the*
18 *Immigration Courts shall be composed of 21 immi-*
19 *gration appeals judges, one of whom shall serve as*
20 *chief judge, in accordance with paragraph (3).*

21 “(2) *APPOINTMENT OF IMMIGRATION APPEALS*
22 *JUDGES.*—

23 “(A) *IN GENERAL.*—*Each immigration ap-*
24 *peals judge shall be appointed by the President,*
25 *by and with the advice and consent of the Sen-*

1 *ate, consistent with the requirements described in*
2 *section 602.*

3 “(B) *TERM OF OFFICE.*—*Each immigration*
4 *appeals judge shall be appointed for a term of 15*
5 *years and may be reappointed for additional 15-*
6 *year terms. An immigration appeals judge who*
7 *is not reappointed for an additional term may*
8 *continue to serve after the expiration of the prior*
9 *term until the earlier of—*

10 “(i) *the date that a successor is ap-*
11 *pointed; or*

12 “(ii) *the date that is 1 year after the*
13 *expiration of the prior term.*

14 “(C) *SPECIAL RULE.*—*If an immigration*
15 *appeals judge does not serve the entirety of an*
16 *appointed term, the resulting vacancy shall be*
17 *filled by a successor appointed for the remainder*
18 *of the term in accordance with this paragraph.*
19 *At the conclusion of the term, such successor may*
20 *be reappointed in accordance with subparagraph*
21 *(B).*

22 “(3) *CHIEF JUDGE.*—

23 “(A) *DESIGNATION.*—

24 “(i) *IN GENERAL.*—*The chief judge*
25 *shall be the immigration appeals judge who*

1 is most senior in appointment among the
2 immigration appeals judges who, at that
3 time of appointment to the appellate divi-
4 sion—

5 “(I) have served for 1 or more
6 years;

7 “(II) have at least 5 years re-
8 maining in their term of office as an
9 immigration appeals judge; and

10 “(III) have not previously served
11 as chief judge.

12 “(ii) *ACTING CHIEF JUDGE.*—If no im-
13 migration appeals judge in regular active
14 service satisfies all of the requirements in
15 clause (i), the immigration appeals judge
16 who is most senior in commission and who
17 has not previously served as chief judge
18 shall serve as acting chief judge until an
19 immigration appeals judge becomes eligible
20 under such clause.

21 “(iii) *PRECEDENCE.*—Immigration ap-
22 peals judges who have the same seniority in
23 commission shall be eligible for service as
24 chief judge according to seniority in age.

25 “(B) *TERM OF OFFICE.*—

1 “(i) *IN GENERAL.*—*Except as provided*
2 *in clause (ii), the chief judge shall serve a*
3 *term that shall end on the earliest of—*

4 “(I) *the date that is 5 years after*
5 *the date that term begins;*

6 “(II) *the date that the judge is re-*
7 *moved from service for cause in accord-*
8 *ance with section 602(f);*

9 “(III) *the date that the judge*
10 *leaves regular active service as an im-*
11 *migration appeals judge; and*

12 “(IV) *the date that the judge pro-*
13 *vides written notice to the other immi-*
14 *gration appeals judges that such judge*
15 *is resigning from service as chief judge.*

16 “(ii) *CONTINUATION OF SERVICE.*—*If,*
17 *upon conclusion of the chief judge’s term of*
18 *office described in clause (i)(I), no other im-*
19 *migration appeals judge is eligible to as-*
20 *sume the role of chief judge as provided in*
21 *subparagraph (A), the incumbent shall con-*
22 *tinue to serve as chief judge until another*
23 *immigration appeals judge becomes eligible.*

24 “(4) *EN BANC EXERCISE OF APPELLATE DIVI-*
25 *SION AUTHORITY IN NON-ADJUDICATIVE MATTERS.*—

1 “(A) *IN GENERAL.*—*The appellate division*
2 *shall exercise only en banc its authority to—*

3 “(i) *appoint immigration trial judges*
4 *to the trial division;*

5 “(ii) *remove immigration trial judges*
6 *in accordance with section 602(f);*

7 “(iii) *appoint a chief administrative*
8 *officer to the administrative division;*

9 “(iv) *promulgate rules and set policies*
10 *and procedures of the Immigration Courts;*
11 *and*

12 “(v) *address other non-adjudicative*
13 *matters that require en banc consideration,*
14 *as determined by the chief judge.*

15 “(B) *MAJORITY VOTE.*—*The appellate divi-*
16 *sion shall exercise its en banc authority as pro-*
17 *vided in subparagraph (A) by a majority vote,*
18 *a quorum being present.*

19 “(C) *QUORUM.*—*For purposes of this para-*
20 *graph, not less than three immigration appeals*
21 *judges in regular active service or $\frac{2}{3}$ of all im-*
22 *migration appeals judges in regular active serv-*
23 *ice, whichever is greater, shall constitute a*
24 *quorum.*

25 “(c) *TRIAL DIVISION.*—

1 “(1) *IN GENERAL.*—*The trial division of the Im-*
2 *migration Courts shall be composed of immigration*
3 *trial courts, the number and geographical location of*
4 *which shall be determined by the administrative*
5 *council, in accordance with the procedures described*
6 *in subsection (d)(3)(B). Each immigration trial court*
7 *shall be overseen by a chief trial judge.*

8 “(2) *APPOINTMENT OF IMMIGRATION TRIAL*
9 *JUDGES.*—

10 “(A) *IN GENERAL.*—*Except as provided in*
11 *section 603, each immigration trial judge shall*
12 *be appointed by the appellate division consistent*
13 *with the requirements described in section 602.*

14 “(B) *TERM OF OFFICE.*—*Each immigration*
15 *trial judge shall be appointed for a term of 15*
16 *years and may be reappointed for additional 15-*
17 *year terms. An immigration trial judge who is*
18 *not reappointed for an additional term may con-*
19 *tinue to serve after the expiration of the prior*
20 *term for not more than 1 year or until a suc-*
21 *cessor is appointed, whichever occurs first.*

22 “(3) *CHIEF TRIAL JUDGES.*—

23 “(A) *DESIGNATION.*—*The chief judge shall*
24 *designate one immigration trial judge to serve as*
25 *the chief trial judge for each geographical area.*

1 *If only one immigration trial judge presides over*
2 *a geographical area, that judge shall be des-*
3 *ignated the chief trial judge.*

4 “(B) *TERM OF OFFICE.*—*Chief trial judges*
5 *shall serve for an initial term of 5 years and*
6 *may be reappointed for additional 5-year terms,*
7 *or other periods of time that are less than 5*
8 *years as determined by the appellate division.*

9 “(C) *RESPONSIBILITIES.*—*In addition to*
10 *fulfilling regular judicial duties, chief trial*
11 *judges shall be responsible for—*

12 “(i) *overseeing the administrative oper-*
13 *ations of the trial division in the geo-*
14 *graphical area in which they are located;*
15 *and*

16 “(ii) *fulfilling all other duties and re-*
17 *sponsibilities articulated in this Act or dele-*
18 *gated to the chief trial judges by the chief*
19 *judge.*

20 “(d) *ADMINISTRATIVE DIVISION.*—

21 “(1) *IN GENERAL.*—*The administrative division*
22 *of the Immigration Courts shall consist of an admin-*
23 *istrative office and an administrative council.*

1 “(2) *ADMINISTRATIVE OFFICE.*—*The administra-*
2 *tive office shall be managed by a chief administrative*
3 *officer, who shall be responsible for—*

4 “(A) *implementing and administering oper-*
5 *ational rules, policies, and procedures of the Im-*
6 *migration Courts established by the appellate di-*
7 *vision or the administrative council;*

8 “(B) *assisting the administrative council in*
9 *executing its responsibilities as described in*
10 *paragraph (3); and*

11 “(C) *fulfilling all other administrative du-*
12 *ties and responsibilities articulated in this Act*
13 *or delegated by the chief judge.*

14 “(3) *ADMINISTRATIVE COUNCIL.*—

15 “(A) *IN GENERAL.*—*The chief judge of the*
16 *appellate division shall summon annually the*
17 *chief trial judge of each court of the trial divi-*
18 *sion to a meeting at such time and place in the*
19 *United States as the chief judge may designate.*
20 *The chief judge shall preside at such meeting*
21 *which shall be known as the administrative*
22 *council of the Immigration Courts. Special ses-*
23 *sions of the council may be called by the chief*
24 *judge at such times and places as the chief judge*
25 *may designate. If the chief trial judge of any*

1 *court of the trial division is unable to attend, the*
2 *chief judge may summon any other judge from*
3 *such court. Every judge summoned shall attend*
4 *and, unless excused by the chief judge, shall re-*
5 *main throughout the sessions of the council and*
6 *advise as to the needs of that judge’s court and*
7 *as to any matters in respect of which the admin-*
8 *istration of justice in the Immigration Courts*
9 *may be improved.*

10 “(B) *DETERMINATION OF NUMBER OF RE-*
11 *QUIRED JUDGES AND GEOGRAPHICAL AREAS OF*
12 *SERVICE.—*

13 “(i) *SURVEY.—Not later than 1 year*
14 *after the application date described in sec-*
15 *tion 6 of the Real Courts, Rule of Law Act*
16 *of 2022, and every 4 years thereafter, the*
17 *administrative council shall conduct a sur-*
18 *vey, which shall include the solicitation of*
19 *information and recommendations from the*
20 *public, to determine the number of immi-*
21 *gration trial courts required to provide for*
22 *the expeditious and effective administration*
23 *of justice, as well as the geographical areas*
24 *to be served by such courts. In conducting*

1 *the survey, the administrative council*
2 *shall—*

3 “(I) *assess the continuing need for*
4 *existing immigration trial court posi-*
5 *tions and the need for additional posi-*
6 *tions in each geographical location;*

7 “(II) *evaluate local conditions in*
8 *each geographical location, including*
9 *the proximity to populations to be*
10 *served, the quality and availability of*
11 *infrastructure to support transpor-*
12 *tation and communication, and the*
13 *availability of legal services for indi-*
14 *gent and non-English speaking indi-*
15 *viduals;*

16 “(III) *consider proximity and ac-*
17 *cess to judicial and Department of*
18 *Homeland Security facilities; and*

19 “(IV) *consider the allocation of*
20 *immigration trial courts and judges*
21 *among existing geographical areas and*
22 *whether the administration of justice*
23 *would be better served by the presence*
24 *of immigration trial courts and judges*
25 *in new or different areas.*

1 “(ii) *PUBLICATION OF SURVEY RE-*
2 *SULTS.—The administrative council shall*
3 *publish the results of the survey described in*
4 *subparagraph (A).*

5 “(iii) *NOTICE OF VACANCIES.—The ad-*
6 *ministrative council shall publish notice of*
7 *any immigration judge vacancies or new*
8 *staff positions.*

9 “(C) *MERIT SELECTION PANEL.—*

10 “(i) *APPOINTMENT OF IMMIGRATION*
11 *JUDGES.—The administrative council shall*
12 *establish a merit selection panel to assist in*
13 *identifying and recommending individuals*
14 *who are best qualified to serve as immigra-*
15 *tion judges, consistent with subsections (a),*
16 *(b), and (c) of section 602.*

17 “(ii) *COMPOSITION.—The panel de-*
18 *scribed in paragraph (1) shall consist of*
19 *qualified individuals with experience in a*
20 *diverse range of settings, including aca-*
21 *demia, nongovernmental organizations, pri-*
22 *vate immigration practice, and government*
23 *service.*

1 **“SEC. 602. IMMIGRATION APPEALS JUDGES AND TRIAL**
2 **JUDGES.**

3 *“(a) QUALIFICATIONS OF IMMIGRATION JUDGES.—*
4 *Each immigration judge shall—*

5 *“(1) be a member in good standing of the bar of*
6 *a Federal court or the highest court of a State, or any*
7 *combination thereof, for not less than 10 years;*

8 *“(2) possess, and have a reputation for, integrity*
9 *and good character;*

10 *“(3) possess and have demonstrated a commit-*
11 *ment to equal justice under the law;*

12 *“(4) possess and have demonstrated outstanding*
13 *legal ability and competence, as evidenced by substan-*
14 *tial legal experience, ability to deal with complex*
15 *legal problems, aptitude for legal scholarship and*
16 *writing, and familiarity with courts and court proc-*
17 *esses;*

18 *“(5) exhibit demeanor, character, and person-*
19 *ality that indicate a judicial temperament; and*

20 *“(6) be qualified to conduct fair and impartial*
21 *hearings that are consistent with due process.*

22 *“(b) ADDITIONAL FACTORS FOR THE APPOINTMENT OF*
23 *IMMIGRATION JUDGES.—In appointing immigration*
24 *judges, the President and the appellate division shall ensure*
25 *that—*

1 “(1) qualified candidates are identified without
2 regard to race, color, sex, religion, national origin,
3 disability, age, or any other factor protected under
4 Federal law;

5 “(2) to the extent practicable, the corps of immi-
6 gration judges—

7 “(A) is comprised primarily of individuals
8 with prior legal experience in immigration law;
9 and

10 “(B) reflects a balance of individuals with
11 prior legal experience in the public sector and
12 private sector; and

13 “(3) candidates are selected without regard to
14 political party affiliation or perceived political ide-
15 ology.

16 “(c) *PROHIBITED RELATIONSHIPS.*—No individual
17 may be appointed as an immigration trial judge if such
18 individual is related by blood in the first-, second-, or third-
19 degree, or by marriage to a immigration appeals judge in
20 regular active service.

21 “(d) *CONTINUING EDUCATION.*—In addition to the
22 training required under section 603(c) of the International
23 Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), all im-
24 migration judges shall be required to satisfy continuing

1 *education requirements, as determined by the administra-*
2 *tive council.*

3 “(e) *SALARIES.*—

4 “(1) *IMMIGRATION APPEALS JUDGES.*—*Each im-*
5 *migration appeals judge shall serve on a full-time*
6 *basis and shall receive as compensation for such serv-*
7 *ices, an annual salary that is equal to the salary of*
8 *a judge of the district court of the United States as*
9 *determined pursuant to section 135 of title 28, United*
10 *States Code.*

11 “(2) *IMMIGRATION TRIAL JUDGES.*—*Each immi-*
12 *gration trial judge shall serve on a full-time basis and*
13 *shall receive as compensation for such services, an an-*
14 *ual salary that is equal to 92 percent of the salary*
15 *of a judge of the district court of the United States*
16 *as determined pursuant to section 135 of title 28,*
17 *United States Code.*

18 “(3) *PROHIBITION ON THE PRACTICE OF LAW.*—
19 *No immigration judge may engage in the practice of*
20 *law or any other practice, business, occupation, or*
21 *employment that is inconsistent with the expeditious,*
22 *proper, and impartial performance of such judge’s*
23 *duties.*

24 “(f) *REMOVAL.*—

1 “(1) *IN GENERAL.*—*An immigration judge may*
2 *be removed from office only on grounds of incapacity,*
3 *misconduct, neglect of duty, or having engaged in the*
4 *practice of law, and in accordance with the following:*

5 “(A) *An immigration appeals judge may be*
6 *removed from office by the President.*

7 “(B) *An immigration trial judge may be re-*
8 *moved from office by the appellate division.*

9 “(C) *No immigration judge may be removed*
10 *from office unless such judge is provided with no-*
11 *tice of the allegations forming the basis for re-*
12 *moval and an opportunity to appear in person*
13 *at a hearing to rebut such allegations.*

14 “(2) *COMPLAINTS.*—

15 “(A) *IN GENERAL.*—*The appellate division*
16 *shall promulgate rules, consistent with chapter*
17 *16 of title 28, United States Code, for receiving,*
18 *investigating, and resolving complaints regard-*
19 *ing the conduct of immigration judges. In inves-*
20 *tigating and acting upon any such complaint,*
21 *the appellate division shall have the powers*
22 *granted to a judicial council under such chapter.*

23 “(B) *JUDICIAL CONFERENCE.*—*The provi-*
24 *sions of sections 354(b) through 360 of title 28,*
25 *United States Code, regarding referral or certifi-*

1 *cation to, and petition for review in the Judicial*
 2 *Conference of the United States, and action*
 3 *thereon, shall apply to the exercise of the powers*
 4 *of a judicial council by the appellate division.*
 5 *The grounds for removal specified in paragraph*
 6 *(1) shall provide the basis for a determination to*
 7 *refer a complaint to the Judicial Conference, for*
 8 *further action by the Conference, and for certifi-*
 9 *cation and transmittal by the Conference of any*
 10 *complaint to the President.*

11 “(g) *RETIREMENT.*—

12 “(1) *Any immigration judge shall retire upon*
 13 *attaining the age of 80.*

14 “(2) *Any immigration judge who meets the age*
 15 *and service requirements set forth in the following*
 16 *table may retire:*

<i>“The immigration judge has attained age</i>	<i>And the years of service as an immigration judge are at least:</i>
65	15
66	14
67	13
68	12
69	11
70	10.

17 “(3) *Any immigration judge who is not re-*
 18 *appointed following the expiration of the term of his*
 19 *office may retire upon the completion of such term,*
 20 *if—*

1 “(A) he has served as an immigration judge
2 for 15 years or more; and

3 “(B) not earlier than 9 months preceding
4 the date of the expiration of the term of his office
5 and not later than 6 months preceding such date,
6 he advised the President or the appellate divi-
7 sion, as appropriate, in writing that he was
8 willing to accept reappointment as an immigra-
9 tion judge.

10 “(4) Any immigration judge who becomes per-
11 manently disabled from performing his duties shall
12 retire.

13 “(h) *RETIRED PAY*.—Any individual who—

14 “(1) retires under paragraph (1), (2), or (3) of
15 subsection (g) and elects under subsection (i) to re-
16 ceive retired pay under this subsection shall receive
17 retired pay during any period at a rate which bears
18 the same ratio to the rate of the salary payable to an
19 immigration judge during such period as the number
20 of years he has served as immigration judge bears to
21 10; except that the rate of such retired pay shall not
22 be more than the rate of such salary for such period;
23 or

24 “(2) retires under paragraph (4) of subsection
25 (b) and elects under subsection (i) to receive retired

1 *pay under this subsection shall receive retired pay*
2 *during any period at a rate—(A) equal to the rate*
3 *of the salary payable to an immigration judge during*
4 *such period if before he retired he had served as an*
5 *immigration judge not less than 10 years; or (B) one-*
6 *half of the rate of the salary payable to an immigra-*
7 *tion judge during such period if before he retired he*
8 *had served as an immigration judge less than 10*
9 *years.*

10 *Such retired pay shall begin to accrue on the day following*
11 *the day on which his salary as immigration judge ceases*
12 *to accrue, and shall continue to accrue during the remain-*
13 *der of his life. Retired pay under this subsection shall be*
14 *paid in the same manner as the salary of an immigration*
15 *judge. In computing the rate of the retired pay under para-*
16 *graph (1) of this subsection for any individual who is enti-*
17 *tled thereto, that portion of the aggregate number of years*
18 *he has served as an immigration judge which is a fractional*
19 *part of 1 year shall be eliminated if it is less than 6 months,*
20 *or shall be counted as a full year if it is 6 months or more.*
21 *In computing the rate of the retired pay under paragraph*
22 *(1) of this subsection for any individual who is entitled*
23 *thereto, any period during which such individual performs*
24 *services under subsection (c) on a substantially full-time*

1 *basis shall be treated as a period during which he has served*
2 *as an immigration judge.*

3 “(i) *ELECTION TO RECEIVE RETIRED PAY.—Any im-*
4 *migration judge may elect to receive retired pay under sub-*
5 *section (h). Such an election—*

6 “(1) *may be made only while an individual is*
7 *an immigration judge (except that in the case of an*
8 *individual who fails to be reappointed as immigra-*
9 *tion judge at the expiration of a term of office, it may*
10 *be made at any time before the day after the day on*
11 *which his successor takes office);*

12 “(2) *once made, shall be irrevocable;*

13 “(3) *in the case of any immigration judge other*
14 *than the chief judge, shall be made by filing notice*
15 *thereof in writing with the chief judge; and*

16 “(4) *in the case of the chief judge, shall be made*
17 *by filing notice thereof in writing with the Office of*
18 *Personnel Management.*

19 *The chief judge shall transmit to the Office of Personnel*
20 *Management a copy of each notice filed with him under*
21 *this subsection.*

22 “(j) *RETIRED PAY AFFECTED IN CERTAIN CASES.—*
23 *In the case of an individual for whom an election to receive*
24 *retired pay under subsection (h) is in effect—*

1 “(1) 1-YEAR FORFEITURE FOR FAILURE TO PER-
2 FORM JUDICIAL DUTIES.—If such individual during
3 any calendar year fails to perform judicial duties re-
4 quired of him by section 603, such individual shall
5 forfeit all rights to retired pay under subsection (d)
6 for the 1-year period which begins on the first day on
7 which he so fails to perform such duties.

8 “(2) SUSPENSION OF RETIRED PAY DURING PE-
9 RIOD OF COMPENSATED GOVERNMENT SERVICE.—If
10 such individual accepts compensation for civil office
11 or employment under the Government of the United
12 States (other than the performance of judicial duties
13 pursuant to section 603), such individual shall forfeit
14 all rights to retired pay under subsection (h) for the
15 period for which such compensation is received.

16 “(3) FORFEITURES OF RETIRED PAY UNDER
17 PARAGRAPH (1) NOT TO APPLY WHERE INDIVIDUAL
18 ELECTS TO FREEZE AMOUNT OF RETIRED PAY.—

19 “(A) IN GENERAL.—If any individual
20 makes an election under this paragraph—

21 “(i) paragraph (1) and section 603
22 shall not apply to such individual begin-
23 ning on the date such election takes effect,
24 and

1 “(ii) the retired pay under subsection
2 (h) payable to such individual for periods
3 beginning on or after the date such election
4 takes effect shall be equal to the retired pay
5 to which such individual would be entitled
6 without regard to this clause at the time of
7 such election.

8 “(B) ELECTION.—An election under this
9 paragraph—

10 “(i) may be made by an individual
11 only if such individual meets the age and
12 service requirements for retirement under
13 paragraph (2) of subsection (g),

14 “(ii) may be made only during the pe-
15 riod during which the individual may make
16 an election to receive retired pay or while
17 the individual is receiving retired pay, and

18 “(iii) shall be made in the same man-
19 ner as the election to receive retired pay.

20 Such an election, once it takes effect, shall be ir-
21 revocable.

22 “(C) WHEN ELECTION TAKES EFFECT.—
23 Any election under this paragraph shall take ef-
24 fect on the first day of the first month following
25 the month in which the election is made.

1 “(k) *COORDINATION WITH CIVIL SERVICE RETIRE-*
2 *MENT.—*

3 “(1) *GENERAL RULE.—Except as otherwise pro-*
4 *vided in this subsection, the provisions of the civil*
5 *service retirement laws (including the provisions re-*
6 *lating to the deduction and withholding of amounts*
7 *from basic pay, salary, and compensation) shall*
8 *apply in respect of service as an immigration judge*
9 *(together with other service as an officer or employee*
10 *to whom such civil service retirement laws apply) as*
11 *if this section had not been enacted.*

12 “(2) *EFFECT OF ELECTING RETIRED PAY.—In*
13 *the case of any individual who has filed an election*
14 *to receive retired pay under subsection (h)—*

15 “(A) *no annuity or other payment shall be*
16 *payable to any person under the civil service re-*
17 *irement laws with respect to any service per-*
18 *formed by such individual (whether performed*
19 *before or after such election is filed and whether*
20 *performed as immigration judge or otherwise);*

21 “(B) *no deduction for purposes of the Civil*
22 *Service Retirement and Disability Fund shall be*
23 *made from retired pay payable to him under*
24 *subsection (h) or from any other salary, pay, or*
25 *compensation payable to him, for any period be-*

1 *ginning after the day on which such election is*
2 *filed; and*

3 *“(C) such individual shall be paid the*
4 *lump-sum credit computed under section 8331(8)*
5 *of title 5, United States Code, upon making ap-*
6 *plication therefor with the Office of Personnel*
7 *Management.*

8 *“(l) RETIREMENT FOR DISABILITY.—*

9 *“(1) Any immigration judge who becomes per-*
10 *manently disabled from performing his duties shall*
11 *certify to the President, or the appellate division, as*
12 *applicable, his disability in writing. If the chief judge*
13 *retires for disability, his retirement shall not take ef-*
14 *fect until concurred in by the President.*

15 *“(2) Whenever any immigration judge who be-*
16 *comes permanently disabled from performing his du-*
17 *ties does not retire or the appellate division, as appli-*
18 *cable, and the President finds that such immigration*
19 *judge is unable to discharge efficiently all the duties*
20 *of his office by reason of permanent mental or phys-*
21 *ical disability and that the appointment of an addi-*
22 *tional immigration judge is necessary for the efficient*
23 *dispatch of business, the President or the appellate di-*
24 *vision, as applicable, shall declare such immigration*
25 *judge to be retired.*

1 “(m) *REVOCAION OF ELECTION TO RECEIVE RE-*
2 *TIRED PAY.—*

3 “(1) *IN GENERAL.—Notwithstanding subsection*
4 *(e)(2), an individual who has filed an election to re-*
5 *ceive retired pay under subsection (h) may revoke*
6 *such election at any time before the first day on*
7 *which retired pay (or compensation under section 603*
8 *in lieu of retired pay) would (but for such revocation)*
9 *begin to accrue with respect to such individual.*

10 “(2) *MANNER OF REVOKING.—Any revocation*
11 *under this subsection shall be made by filing a notice*
12 *thereof in writing with the Civil Service Commission.*
13 *The Civil Service Commission shall transmit to the*
14 *chief judge a copy of each notice filed under this sub-*
15 *section.*

16 “(3) *EFFECT OF REVOCATION.—In the case of*
17 *any revocation under this subsection—*

18 “(A) *for purposes of this section, the indi-*
19 *vidual shall be treated as not having filed an*
20 *election to receive retired pay under subsection*
21 *(h),*

22 “(B) *no credit shall be allowed for any serv-*
23 *ice as an immigration judge unless with respect*
24 *to such service either there has been deducted and*
25 *withheld the amount required by the civil service*

1 *retirement laws or there has been deposited in*
2 *the Civil Service Retirement and Disability*
3 *Fund an amount equal to the amount so re-*
4 *quired, with interest,*

5 *“(C) the Immigration Courts shall deposit*
6 *in the Civil Service Retirement and Disability*
7 *Fund an amount equal to the additional amount*
8 *it would have contributed to such Fund but for*
9 *the election under subsection (i), and*

10 *“(D) if subparagraph (C) is complied with,*
11 *service on the Immigration Courts shall be treat-*
12 *ed as service with respect to which deductions*
13 *and contributions had been made during the pe-*
14 *riod of service.*

15 *“(n) THRIFT SAVINGS PLAN.—*

16 *“(1) ELECTION TO CONTRIBUTE.—*

17 *“(A) IN GENERAL.—An immigration judge*
18 *may elect to contribute to the Thrift Savings*
19 *Fund established by section 8437 of title 5,*
20 *United States Code.*

21 *“(B) PERIOD OF ELECTION.—An election*
22 *may be made under this paragraph only during*
23 *a period provided under section 8432(b) of title*
24 *5, United States Code, for individuals subject to*
25 *chapter 84 of such title.*

1 “(2) *APPLICABILITY OF TITLE 5 PROVISIONS.*—
2 *Except as otherwise provided in this subsection, the*
3 *provisions of subchapters III and VII of chapter 84*
4 *of title 5, United States Code, shall apply with re-*
5 *spect to an immigration judge who makes an election*
6 *under paragraph (1).*

7 “(3) *SPECIAL RULES.*—

8 “(A) *AMOUNT CONTRIBUTED.*—*The amount*
9 *contributed by an immigration judge to the*
10 *Thrift Savings Fund in any pay period shall not*
11 *exceed the maximum percentage of such immi-*
12 *gration judge’s basic pay for such period as al-*
13 *lowable under section 8440f of title 5, United*
14 *States Code. Basic pay does not include any re-*
15 *tired pay paid pursuant to this section.*

16 “(B) *CONTRIBUTIONS FOR BENEFIT OF IM-*
17 *MIGRATION JUDGE.*—*No contributions may be*
18 *made for the benefit of an immigration judge*
19 *under section 8432(c) of title 5, United States*
20 *Code.*

21 “(C) *APPLICABILITY OF SECTION 8433(b) OF*
22 *TITLE 5 WHETHER OR NOT IMMIGRATION JUDGE*
23 *RETIREES.*—*Section 8433(b) of title 5, United*
24 *States Code, applies with respect to an immigra-*

1 *tion judge who makes an election under para-*
2 *graph (1) and who either—*

3 *“(i) retires under subsection (g), or*

4 *“(ii) ceases to serve as an immigration*
5 *judge but does not retire under subsection*
6 *(g).*

7 *Retirement under subsection (b) is a separation*
8 *from service for purposes of subchapters III and*
9 *VII of chapter 84 of that title.*

10 *“(D) APPLICABILITY OF SECTION 8351(b)(5)*
11 *OF TITLE 5.—The provisions of section*
12 *8351(b)(5) of title 5, United States Code, shall*
13 *apply with respect to an immigration judge who*
14 *makes an election under paragraph (1).*

15 *“(E) EXCEPTION.—Notwithstanding sub-*
16 *paragraph (C), if any immigration judge retires*
17 *under this section, or resigns without having met*
18 *the age and service requirements set forth under*
19 *subsection (g)(2), and such immigration judge’s*
20 *nonforfeitable account balance is less than an*
21 *amount that the Executive Director of the Fed-*
22 *eral Retirement Thrift Investment Board pre-*
23 *scribes by regulation, the Executive Director*
24 *shall pay the nonforfeitable account balance to*
25 *the participant in a single payment.*

1 **“SEC. 603. TEMPORARY IMMIGRATION JUDGES AND COURT**
2 **FACILITIES.**

3 “(a) *IN GENERAL.*—Subject to subsection (c), if the ad-
4 ministrative council determines, based on specific and cred-
5 ible facts, that the current resources of the Immigration
6 Courts are insufficient for the expeditious and effective ad-
7 ministration of justice, the appellate division may exercise
8 its authority *en banc* to—

9 “(1) *appoint temporary immigration trial*
10 *judges, which appointment shall be undertaken in a*
11 *manner consistent with the requirements of section*
12 *602, to the extent practicable;*

13 “(2) *recall retired immigration trial or appeals*
14 *judges, as described in subsection (b); and*

15 “(3) *establish temporary court facilities in des-*
16 *ignated geographic areas.*

17 “(b) *RECALL OF RETIRED JUDGES.*—

18 “(1) *ELIGIBILITY.*—A retired immigration judge
19 may be recalled for service if the judge provides to the
20 clerk of the Immigration Courts written notice that
21 the judge is willing to be recalled for service in ac-
22 cordance with the terms of this subsection.

23 “(2) *AUTHORITY OF RECALLED JUDGES.*—An
24 immigration judge who is recalled to serve as an im-
25 migration appeals judge or immigration trial judge
26 may exercise all of the judicial powers and duties of

1 *such judges in regular active service, except as specifi-*
2 *cally provided in this subtitle. Such judge shall not*
3 *be counted for purposes of section 601(b)(1) or (c)(2).*

4 “(3) *COMPENSATION.*—*An immigration judge*
5 *who is recalled for service shall be paid at the rate*
6 *of pay in effect under section 602(e) for the position*
7 *at the time of such recall, less the amount of the*
8 *judge’s retirement annuity, if any.*

9 “(4) *EFFECT ON CIVIL SERVICE RETIREMENT.*—
10 *Except as provided in subsection (d), an immigration*
11 *judge who is recalled for service who retired under*
12 *chapter 83 or 84 of title 5, United States Code, shall*
13 *be considered to be a reemployed annuitant under*
14 *that chapter. Nothing in this subsection affects the*
15 *right of an immigration judge who retired under*
16 *chapter 83 or 84 of title 5, United States Code, to*
17 *serve as a reemployed annuitant in accordance with*
18 *the provisions of title 5, United States Code.*

19 “(c) *REPORTING REQUIREMENTS.*—

20 “(1) *INITIAL REPORT.*—*Prior to exercising the*
21 *authority described in subsection (a), the appellate di-*
22 *vision shall transmit a report to the Committee on the*
23 *Judiciary of the House of Representatives and the*
24 *Committee on the Judiciary of the Senate detailing—*

1 “(A) *the specific and credible facts that led*
2 *to the determination that additional court re-*
3 *sources are required;*

4 “(B) *an assessment as to the number of*
5 *temporary immigration judges or court facilities*
6 *that are required; and*

7 “(C) *an estimate as to how long the appel-*
8 *late division expects the immigration judges or*
9 *court facilities described in subsection (a) to re-*
10 *main in place.*

11 “(2) *ADDITIONAL REPORTING.—Not later than*
12 *30 days after exercising the authority under sub-*
13 *section (a) and every 30 days thereafter, the appellate*
14 *division shall report to the Committees named in*
15 *paragraph (1) on the current status of the Immigra-*
16 *tion Courts and the continuing need for the tem-*
17 *porary immigration judges or court facilities.*

18 “(3) *REDUCTION IN RESOURCES AND TERMI-*
19 *NATION.—*

20 “(A) *GRADUAL REDUCTION IN RE-*
21 *SOURCES.—The appellate division shall, exer-*
22 *cising its authority en banc in accordance with*
23 *section 601(b)(4), terminate the appointment of*
24 *individual temporary immigration judges and*
25 *close individual temporary court facilities as the*

1 *appellate division, in consultation with the ad-*
2 *ministrative council, determines they are no*
3 *longer required. For purposes of this subpara-*
4 *graph, section 602(g) does not apply.*

5 “(B) *TERMINATION.*—*All temporary immi-*
6 *gration judge appointments shall be rescinded*
7 *and all temporary court facilities closed upon*
8 *the earliest of—*

9 “(i) *the date that the appellate division*
10 *determines, in consultation with the admin-*
11 *istrative council, that regular court re-*
12 *sources are sufficient to resume normal*
13 *court operations;*

14 “(ii) *the date that Congress directs that*
15 *such actions be taken by concurrent resolu-*
16 *tion; or*

17 “(iii) *210 days after the appellate divi-*
18 *sion submits its initial report under para-*
19 *graph (1)(A), unless Congress extends such*
20 *210-day period by law.*

21 **“SEC. 604. JURISDICTION.**

22 “(a) *APPELLATE DIVISION JURISDICTION.*—

23 “(1) *IN GENERAL.*—*The appellate division of the*
24 *Immigration Courts shall have jurisdiction over—*

1 “(A) appeals of immigration trial judge de-
2 cisions, as described in section 625(c);

3 “(B) appeals of decisions by the Secretary
4 of Homeland Security on petitions filed under
5 section 204 to classify an alien described in sec-
6 tion 201(b)(2)(A)(i) or 203(a); and

7 “(C) original proceedings and appeals in
8 disciplinary matters concerning attorneys and
9 practitioners before the Immigration Courts.

10 “(2) SAVINGS CLAUSE.—In addition to the mat-
11 ters described in paragraph (1), the appellate division
12 shall have jurisdiction to hear and decide all other
13 matters over which the Board of Immigration Appeals
14 had authority on the day before the application date
15 described in section 6(a) of the Real Courts, Rule of
16 Law Act of 2022.

17 “(b) TRIAL DIVISION JURISDICTION.—

18 “(1) IN GENERAL.—The trial division of the Im-
19 migration Courts shall have original jurisdiction
20 over—

21 “(A) removal proceedings as described in
22 sections 238 and 240;

23 “(B) review of rescissions of lawful perma-
24 nent residence under section 246;

1 “(C) review of credible fear determinations
2 under section 235 and reasonable fear deter-
3 minations for aliens subject to reinstated orders
4 of removal under section 241;

5 “(D) review of applications for asylum re-
6 ferred by the Secretary of Homeland Security
7 where the applicant is barred from being placed
8 in removal proceedings under section 240, and
9 referrals for protection under section 241(b)(3)
10 or the United Nations Convention Against Tor-
11 ture where the individual is not in removal pro-
12 ceedings and is barred from asylum under this
13 Act;

14 “(E) determinations relating to bond, cus-
15 tody, or the detention of any alien in the custody
16 of the Department of Homeland Security;

17 “(F) determinations as to whether adminis-
18 trative actions arising from applications or peti-
19 tions filed by or on behalf of the alien and that
20 are pending during the course of the alien’s re-
21 moval proceedings under section 240 have been
22 unlawfully withheld or unreasonably delayed;
23 and

1 “(G) disciplinary matters concerning attor-
2 neys and practitioners before the Immigration
3 Courts.

4 “(2) SAVINGS CLAUSE.—In addition to the mat-
5 ters described in paragraph (1), the trial division
6 shall have jurisdiction to hear and decide all other
7 matters over which immigration judges had authority
8 on the day before the application date described in
9 section 6(a) of the Real Courts, Rule of Law Act of
10 2022.

11 **“Subtitle B—Procedure and**
12 **Appellate Review**

13 **“SEC. 621. PROCEEDINGS.**

14 “(a) TRIAL DIVISION PROCEEDINGS.—

15 “(1) IN GENERAL.—Except as provided in sec-
16 tion 604(a), all proceedings before the Immigration
17 Courts shall originate in the trial division. Pro-
18 ceedings before the trial division shall be heard and
19 decided by a single immigration trial judge, with
20 matters assigned to such judges in a manner deter-
21 mined by the appellate division.

22 “(2) AUTHORITY OF TRIAL DIVISION.—In pre-
23 siding over matters before the trial division, immigra-
24 tion trial judges may—

1 “(A) record and receive evidence, administer
2 oaths, examine and cross-examine witnesses, set
3 deadlines, and render findings of fact and con-
4 clusions of law;

5 “(B) render decisions on respondents’ prima
6 facie and discretionary eligibility for relief from
7 removal; and

8 “(C) order and take depositions, issue sub-
9 poenas requiring the attendance and testimony
10 of witnesses and the production of documents or
11 other evidence, and order responses to written in-
12 terrogatories.

13 “(b) APPELLATE DIVISION PROCEEDINGS.—

14 “(1) IN GENERAL.—Except as provided by rules
15 established by the appellate division, proceedings be-
16 fore the appellate division shall be heard and decided
17 by immigration appeals judges sitting in panels of
18 three such judges or en banc, and decisions shall be
19 made by majority vote. Any decision of a panel may
20 be reconsidered by the court sitting en banc.

21 “(2) PRECEDENCE IN APPELLATE DIVISION.—

22 The chief judge of the Immigration Courts shall have
23 precedence and preside at any session of the appellate
24 division that such judge attends. Other immigration
25 appeals judges shall have precedence and preside in

1 *the appellate division according to the seniority of*
2 *their original commissions and, for judges whose com-*
3 *missions bear the same date, according to seniority in*
4 *age.*

5 “(c) *CONTEMPT AUTHORITY.*—

6 “(1) *IN GENERAL.*—*Immigration judges shall*
7 *have the authority, to sanction by civil money pen-*
8 *alty, any individual whose action or inaction ob-*
9 *structs the administration of justice or is otherwise in*
10 *contempt of the lawful authority of such judge or the*
11 *Immigration Courts.*

12 “(2) *NOTICE.*—*No individual may be sanctioned*
13 *for contempt under paragraph (1) without first re-*
14 *ceiving notice of the charges and an opportunity to*
15 *rebut such charges.*

16 “(d) *ASSISTANCE TO THE COURT.*—*The Immigration*
17 *Courts shall have such assistance in carrying out its lawful*
18 *writ, process, order, rule, decree, or command, including*
19 *nationwide service of a subpoena, as is available to a court*
20 *of the United States, as that term is defined in section 451*
21 *of title 28, United States Code. The United States marshal*
22 *for a district in which the immigration trial judge is sitting*
23 *shall, if requested by the presiding judge, attend any court*
24 *proceeding in that district, and may otherwise provide,*
25 *when requested by the chief trial judge of that immigration*

1 *trial court, for the security of the immigration trial court,*
2 *including the personal protection of judges, court officers,*
3 *witnesses, and other threatened persons in the interests of*
4 *justice, where criminal intimidation impedes on the func-*
5 *tioning of the judicial process or any other official pro-*
6 *ceeding. The United States Marshals Service retains final*
7 *authority regarding security requirements for the Immigra-*
8 *tion Courts.*

9 “(e) *OPINIONS AND ORDERS.*—

10 “(1) *IN GENERAL.*—*Opinions and orders shall be*
11 *issued in accordance with rules promulgated by the*
12 *appellate division, except that decisions on the merits*
13 *of an application or request for relief from removal*
14 *rendered by the trial division or the appellate divi-*
15 *sion shall, to the greatest extent practicable, be issued*
16 *in the form of a written opinion and shall include an*
17 *analysis of the facts of the case and the legal rea-*
18 *soning for the decision.*

19 “(2) *PRECEDENTS.*—*Unless subsequently modi-*
20 *fied or reversed by the appellate division, the court of*
21 *appeals for the respective judicial circuit, or the Su-*
22 *preme Court, precedent decisions of the appellate divi-*
23 *sion shall be binding on all immigration judges and*
24 *all officers and employees of executive agencies (as de-*
25 *fin ed in section 105 of title 5, United States Code)*

1 *with powers, functions, and duties under this Act and*
2 *other laws relating to the immigration and natu-*
3 *ralization of aliens.*

4 “(f) *RECUSAL OF JUDGES.*—Section 455 of title 28,
5 *United States Code, shall apply to all immigration judges*
6 *and proceedings of the Immigration Courts.*

7 **“SEC. 622. IMMIGRATION COURTS RULES OF PRACTICE AND**
8 **PROCEDURE.**

9 “(a) *IN GENERAL.*—*Exercising its en banc authority,*
10 *the appellate division shall promulgate rules of practice and*
11 *procedure before the trial division and the appellate divi-*
12 *sion, including—*

13 “(1) *rules governing the representation of par-*
14 *ties, which shall—*

15 “(A) *provide for the admission of qualified*
16 *attorneys to practice before the Immigration*
17 *Courts and, as appropriate, for the admission of*
18 *qualified non-attorney representatives;*

19 “(B) *prescribe standards of practice and*
20 *professional conduct, which shall apply to all at-*
21 *torneys and practitioners that appear before the*
22 *Immigration Courts; and*

23 “(C) *provide for disciplinary proceedings*
24 *before the Immigration Courts for attorneys and*

1 *practitioners who do not comply with the stand-*
2 *ards described in subparagraph (B);*

3 “(2) *rules governing the exercise of the appellate*
4 *division’s en banc authority over adjudicative mat-*
5 *ters, including decisions of an appellate division*
6 *panel;*

7 “(3) *rules setting forth the types of matters that*
8 *are appropriate for review by a single appellate*
9 *judge;*

10 “(4) *subject to section 621(e), rules governing the*
11 *issuance of opinions and written orders, and prece-*
12 *dent decisions;*

13 “(5) *rules governing the use of video teleconfer-*
14 *encing technology or other similar technologies, with*
15 *a presumption against the use of video teleconfer-*
16 *encing in proceedings where the alien’s eligibility for*
17 *relief from removal is being evaluated, unless re-*
18 *quested by the alien;*

19 “(6) *procedures, consistent with section 602(f)(2)*
20 *for receiving, investigating, and resolving complaints*
21 *regarding the conduct of immigration judges; and*

22 “(7) *all other policies, and procedures assigned*
23 *to the appellate division as described in this title.*

1 “(b) *LOCAL RULES.*—*Each chief trial judge may es-*
2 *tablish local rules of practice and procedure, provided*
3 *that—*

4 “(1) *such rules are consistent with the provisions*
5 *of this title;*

6 “(2) *a majority of immigration trial judges on*
7 *the immigration trial court of that chief judge concur*
8 *to the local rules; and*

9 “(3) *the chief judge approves the local rules.*

10 “(c) *IMMIGRATION COURT FEES.*—

11 “(1) *IN GENERAL.*—*The appellate division shall*
12 *prescribe rules which provide for the collection of rea-*
13 *sonable filing fees and other fees, as appropriate.*
14 *Each such fee may not exceed the fee charged and col-*
15 *lected for the same or a substantially similar purpose*
16 *by the Federal district courts or the Department of*
17 *Homeland Security.*

18 “(2) *WAIVER.*—*Rules promulgated by the appel-*
19 *late division shall include procedures under which*
20 *any such fee may be waived in the case of financial*
21 *hardship.*

22 “(d) *PUBLICATION OF RULES AND FEES.*—*The admin-*
23 *istrative division shall maintain a public website that con-*
24 *tains or consolidates current information on all rules and*

1 *fees of the Immigration Courts, including all local rules es-*
2 *tablished under this subsection.*

3 **“SEC. 623. REPRESENTATION OF PARTIES AND OTHER AS-**
4 **SISTANCE.**

5 *“(a) RIGHT TO COUNSEL.—In any proceeding before*
6 *the Immigration Courts, the person or party concerned shall*
7 *have the privilege of being represented (at no expense to the*
8 *Government) by such counsel, authorized to practice before*
9 *the Immigration Courts, of their own choosing.*

10 *“(b) INTERPRETERS.—The Immigration Courts shall*
11 *establish a program to ensure the use of qualified inter-*
12 *preters in proceedings before the Immigration Courts.*

13 *“(c) LEGAL ORIENTATION PROGRAM.—The Immigra-*
14 *tion Courts shall maintain, through agreements with legal*
15 *services and other nonprofit organizations, a legal orienta-*
16 *tion program that explains the Court’s procedures and pro-*
17 *vides basic legal information to individuals who are or may*
18 *become parties to proceedings before the Immigration*
19 *Courts.*

20 **“SEC. 624. AVAILABILITY OF INFORMATION.**

21 *“(a) PUBLICATION OF PRECEDENT DECISIONS.—*
22 *Precedent decisions of the appellate division shall be pub-*
23 *lished in such form and manner as may be best adapted*
24 *for public information and use.*

1 “(b) *PUBLICATION OF NON-PRECEDENT DECISIONS*
2 *AND RECORDS.*—

3 “(1) *IN GENERAL.*—*Subject to paragraph (2), all*
4 *non-precedent decisions of the Immigration Courts*
5 *and all briefs, motions, documents, and exhibits re-*
6 *ceived by such court (including hearing transcripts)*
7 *shall be made available to the public.*

8 “(2) *CONFIDENTIAL INFORMATION.*—*The Immi-*
9 *gration Courts shall preserve the confidentiality of in-*
10 *formation relating to matters involving national secu-*
11 *rity, asylum and other forms of protection, and*
12 *claims under the Violence Against Women Act (Public*
13 *Law 103–322, title IV, 108 Stat. 1902), as amended,*
14 *or any other applicable law. The Immigration Courts*
15 *may make any provision necessary to prevent the dis-*
16 *closure of confidential information in its proceedings*
17 *and records, including requiring that such informa-*
18 *tion be placed under seal to be opened only as di-*
19 *rected by the Immigration Courts.*

20 **“SEC. 625. SCOPE OF REVIEW AND APPEALS.**

21 “(a) *IN GENERAL.*—*In any proceeding before the Im-*
22 *migration Courts, the immigration judge shall—*

23 “(1) *consider de novo all constitutional claims*
24 *and questions of law; and*

1 “(2) *compel administrative action on an appli-*
2 *cation or petition filed by or on behalf of the alien*
3 *that is unlawfully withheld or unreasonably delayed.*

4 “(b) *TRIAL DIVISION PROCEEDINGS.—The decision of*
5 *an immigration trial judge shall be based only on the evi-*
6 *dence produced at the hearing and shall set forth the judge’s*
7 *findings of fact, reasoning to support discretionary deter-*
8 *minations, and conclusions of law. Immigration trial*
9 *judges may take judicial notice of commonly known facts.*

10 “(c) *REVIEW BY APPELLATE DIVISION.—*

11 “(1) *IN GENERAL.—In considering an appeal*
12 *from an immigration trial judge decision, the appel-*
13 *late division shall limit its review to the scope of*
14 *issues raised on appeal and shall conduct its review*
15 *of the decision based on the record of proceedings of*
16 *the trial division.*

17 “(2) *FACT FINDING.—Aside from taking judicial*
18 *notice of commonly known facts, the appellate divi-*
19 *sion shall not engage in fact finding in considering*
20 *an appeal of an immigration trial judge decision,*
21 *and shall defer to the factual findings of the immigra-*
22 *tion trial judge unless such findings are challenged*
23 *and determined to be clearly erroneous.*

24 “(d) *REVIEW BY THE UNITED STATES COURTS OF AP-*
25 *PEALS.—A decision of the appellate division may be ap-*

1 pealed by a party to such proceeding and reviewed by the
 2 United States court of appeals for the judicial circuit
 3 wherein venue lies, in accordance with section 242, as ap-
 4 plicable. If the Government appeals a decision pursuant to
 5 this subsection, and the court finds that the alien party to
 6 such appeal is financially unable to obtain adequate rep-
 7 resentation, representation for such alien shall be provided
 8 through the plan for representation on appeal that is in
 9 effect under section 3006A of title 18, United States Code.”.

10 (b) *CLERICAL AMENDMENT.*—The table of contents at
 11 the beginning of the Immigration and Nationality Act (8
 12 U.S.C. 1101 et seq.) is amended by adding at the end the
 13 following new items:

“TITLE VI—UNITED STATES IMMIGRATION COURTS

“Subtitle A—Organization and Jurisdiction

“Sec. 601. Establishment and structure.

“Sec. 602. Immigration appeals judges and trial judges.

“Sec. 603. Temporary immigration judges and court facilities.

“Sec. 604. Jurisdiction.

“Subtitle B—Procedure and Appellate Review

“Sec. 621. Proceedings.

“Sec. 622. Immigration courts rules of practice and procedure.

“Sec. 623. Representation of parties and other assistance.

“Sec. 624. Availability of information.

“Sec. 625. Scope of review and appeals.”.

14 **SEC. 3. EMPLOYEES.**

15 (a) *CLERK OF THE COURT.*—The chief judge may ap-
 16 point, and prescribe the duties for, a clerk of the court with-
 17 out regard to the provisions of title 5, United States Code,
 18 governing appointments in the competitive service.

1 (b) *CHAMBERS STAFF.*—Immigration judges may ap-
2 point law clerks and secretaries, in such numbers as the
3 appellate division approves, without regard to the provi-
4 sions of title 5, United States Code, governing appointments
5 in the competitive service.

6 (c) *OTHER COURT STAFF.*—The clerk of the court and
7 the chief administrative officer may appoint deputies and
8 employees, in such numbers as the appellate division ap-
9 proves, without regard to the provisions of title 5, United
10 States Code, governing appointments in the competitive
11 service.

12 (d) *STAFF SALARIES.*—The appellate division may fix
13 and adjust the rates of basic pay for the clerk, the chief
14 administrative officer, and other employees of the Immigra-
15 tion Courts without regard to the provisions of chapter 51,
16 subchapter III of chapter 53, or section 5373 of title 5,
17 United States Code. To the maximum extent feasible, such
18 employees shall be compensated at rates consistent with
19 those for employees holding comparable positions in the ju-
20 dicial branch.

21 (e) *PREFERENCE ELIGIBLES.*—In making appoint-
22 ments under subsections (a) through (c), preference shall be
23 given, among equally qualified persons, to persons who are
24 preference eligible (as defined in section 2108(3) of title 5,
25 United States Code).

1 (f) *EXPERTS AND CONSULTANTS.*—*The Immigration*
2 *Courts may procure the services of experts and consultants*
3 *as provided under section 3109 of title 5, United States*
4 *Code.*

5 **SEC. 4. BUDGET AND EXPENDITURES.**

6 (a) *COURT BUDGET.*—*For each fiscal year, the budget*
7 *of the Immigration Courts shall be established by the Immi-*
8 *gration Courts, without review or modification by the exec-*
9 *utive branch, and shall be included in the budget of the*
10 *President as submitted.*

11 (b) *PERMISSIBLE COURT EXPENDITURES.*—

12 (1) *The Immigration Courts may make such ex-*
13 *penditures (including expenditures for personal serv-*
14 *ices and rent at the seat of Government and elsewhere,*
15 *and for law books, books of reference, and periodicals)*
16 *as may be necessary to execute efficiently the judicial*
17 *and administrative functions vested in the Courts.*

18 (2) *The Immigration Courts may receive and ex-*
19 *pend funds appropriated to the Courts for purposes of*
20 *paragraph (1) either—*

21 (A) *directly, or*

22 (B) *by transfer to—*

23 (i) *the Director of the Administrative*
24 *Office of the United States Courts,*

1 (ii) another court established under ar-
2 ticle I of the Constitution, or
3 (iii) an executive agency as defined in
4 section 105 of title 5, United States Code,
5 to cover the expense of such administrative support
6 and guidance (including budgetary and financial,
7 payroll and personnel, protective and security, record-
8 keeping and statistical, and information technology
9 services) as the Court may request and the Director,
10 court, or agency may agree to provide from time to
11 time.

12 (c) *METHOD AND SOURCE OF EXPENDITURES.*—All
13 expenditures of the Immigration Courts shall be allowed
14 and paid upon presentation of itemized vouchers signed by
15 the certifying officer designated by the chief judge.

16 **SEC. 5. ANNUAL REPORT.**

17 (a) *IN GENERAL.*—Not later than April 1 of each year,
18 the chief judge shall submit to the Committee on the Judici-
19 ary of the House of Representatives and the Committee on
20 the Judiciary of the Senate, a report summarizing the
21 workload of the Immigration Courts for the preceding fiscal
22 year.

23 (b) *CONTENTS.*—The report described in subsection (a)
24 shall contain—

1 (1) *demographic information, including the age,*
2 *gender, and nationality of respondents appearing be-*
3 *fore the Immigration Courts, and rates at which such*
4 *respondents are represented by counsel;*

5 (2) *outcomes of removal proceedings, including*
6 *grant rates for immigration relief, disaggregated by*
7 *geographical area and immigration trial judge;*

8 (3) *outcomes of bond hearings, disaggregated by*
9 *geographical area and immigration trial court;*

10 (4) *the number of cases currently pending before*
11 *the trial and appellate divisions of the Immigration*
12 *Courts, and the change in such number from the prior*
13 *fiscal year;*

14 (5) *the average number of days for which a re-*
15 *spondent waits to have their case heard, disaggregated*
16 *by geographical area; and*

17 (6) *any information requested by the Committees*
18 *named in subsection (a), provided such request is*
19 *timely and reasonable.*

20 **SEC. 6. APPLICATION DATE; TRANSITIONAL PROVISIONS.**

21 (a) *APPLICATION DATE.*—*The Immigration Courts*
22 *may not begin to exercise the functions of the courts under*
23 *this Act and the amendments made by this Act until the*
24 *date (for purposes of this Act, referred to as the “application*
25 *date”)* that is—

1 (1)(A) *the first day of the first full fiscal year*
2 *after the date of the enactment of this Act, if such*
3 *date is 180 days or more after the date of enactment*
4 *of this Act; or*

5 (B) *the first day of the second full fiscal year*
6 *after the date of the enactment of this Act, if the first*
7 *day of the first full fiscal year after the date of enact-*
8 *ment of this Act is less than 180 days after the date*
9 *of enactment of this Act; and*

10 (2) *the date on which 3 or more immigration ap-*
11 *peals judges have been duly appointed by the Presi-*
12 *dent, in accordance with procedures set forth in sec-*
13 *tion 6(c) of this Act and 601(b)(2) of the Immigration*
14 *and Nationality Act, as added by this Act.*

15 (b) *TRANSITION PERIOD AND APPOINTMENT OF IN-*
16 *TERIM IMMIGRATION TRIAL JUDGES.—*

17 (1) *TRANSITION PERIOD.—The transition period*
18 *described in this section shall be the 4-year period be-*
19 *ginning on the application date of this Act.*

20 (2) *INTERIM IMMIGRATION TRIAL JUDGES.—*

21 (A) *IN GENERAL.—Each individual serving*
22 *as an immigration judge in the Executive Office*
23 *for Immigration Review on the date that is the*
24 *day before the application date of this Act shall*
25 *become an interim immigration trial judge.*

1 (B) *AUTHORITY OF INTERIM IMMIGRATION*
2 *TRIAL JUDGES.*—*Interim immigration judges*
3 *shall have the authority to exercise all powers of*
4 *an immigration trial judge as provided in title*
5 *VI of the Immigration and Nationality Act (8*
6 *U.S.C. 601 et seq.).*

7 (C) *TERM OF SERVICE.*—*An interim immi-*
8 *gration trial judge may serve until the transi-*
9 *tion period has ended and a successor is ap-*
10 *pointed, or for a period not to exceed 5 years,*
11 *whichever is shorter. An otherwise qualified in-*
12 *terim judge may be appointed as an immigra-*
13 *tion trial judge.*

14 (D) *CREDIT AND ELIGIBILITY FOR BENE-*
15 *FITS.*—*Service as an interim immigration trial*
16 *judge shall be included in the same manner as*
17 *service as an immigration trial judge for pur-*
18 *poses of calculating service credit, retirement eli-*
19 *gibility, and disability.*

20 (E) *SEPARATION.*—*Nothing in this Act or*
21 *the amendments made by this Act may be con-*
22 *strued to—*

23 (i) *preclude an interim immigration*
24 *trial judge who is not appointed for a term*
25 *appointment by the appellate division*

1 *under section 601(c)(2) of the Immigration*
2 *and Nationality Act, as added by this Act,*
3 *from eligibility for appointment as an ad-*
4 *ministrative judge, administrative law*
5 *judge, and for attorney positions in agencies*
6 *throughout the Federal Government; or*

7 *(ii) make an interim immigration*
8 *judge described in clause (i) ineligible for*
9 *early retirement pursuant to section*
10 *8336(d)(2)(D) or 8414(b)(1)(B) of title 5,*
11 *United States Code.*

12 *(c) FIRST APPOINTMENTS TO THE UNITED STATES IM-*
13 *MIGRATION COURTS.—*

14 *(1) APPELLATE DIVISION.—*

15 *(A) IN GENERAL.—Notwithstanding section*
16 *601(b)(2)(B) of the Immigration and Nation-*
17 *ality Act as added by this Act, the first 21 im-*
18 *migration appeals judges appointed shall serve*
19 *for the following terms:*

20 *(i) The terms of the first 7 immigra-*
21 *tion appeals judges appointed shall termi-*
22 *nate on the date that is 5 years after the*
23 *date described in subsection (a).*

24 *(ii) The terms of the next 7 immigra-*
25 *tion appeals judges appointed after the*

1 *judges referred to in clause (i) shall termi-*
2 *nate on the date that is 10 years after the*
3 *date described in subsection (a).*

4 *(iii) The terms of the next 7 immigra-*
5 *tion appeals judges appointed after the*
6 *judges referred to in clause (ii) shall termi-*
7 *nate on the date that is 15 years after the*
8 *date described in subsection (a).*

9 *(B) SUCCESSION.—Each immigration ap-*
10 *peals judge described in subparagraph (A) may*
11 *continue to serve after the expiration of the des-*
12 *ignated term if such judge is reappointed in ac-*
13 *cordance with section 601(b)(2)(B) of the Immi-*
14 *gration and Nationality Act as added by this*
15 *Act.*

16 *(2) TRIAL DIVISION.—Not later than 180 days*
17 *before the transition period has ended, the appellate*
18 *division shall establish procedures and requirements*
19 *related to the appointment of immigration trial*
20 *judges.*

21 *(3) CLARIFICATION.—Notwithstanding para-*
22 *graphs (1) and (2) and section 601 of the Immigra-*
23 *tion and Nationality Act, as added by this Act, any*
24 *individual appointed to fill an immigration trial*
25 *judge vacancy during the transition period described*

1 *in subsection (b)(1) shall serve only until the transi-*
2 *tion period has ended and until a successor is ap-*
3 *pointed in accordance with section 602 of the Immi-*
4 *gration and Nationality Act, but not more than 1*
5 *year after the end of the transition period.*

6 *(d) PRIOR SERVICE CREDIT.—*

7 *(1) IN GENERAL.—The period that a covered im-*
8 *migration judge who elects to receive retired pay*
9 *under section 602 of the Immigration and Nation-*
10 *ality Act, as added by this Act, serves as a member*
11 *of the Board of Immigration Appeals, an immigra-*
12 *tion judge, or an administrative law judge in the Ex-*
13 *ecutive Office for Immigration Review of the Depart-*
14 *ment of Justice, shall be included, up to a maximum*
15 *of 5 years, in the service of such individual on the*
16 *Immigration Courts for purposes of computing the*
17 *years of service as an immigration judge.*

18 *(2) COVERED IMMIGRATION JUDGE DEFINED.—*

19 *In this subsection, the term “covered immigration*
20 *judge” means—*

21 *(A) an immigration appeals judge ap-*
22 *pointed under section 601(b) of the Immigration*
23 *and Nationality Act, as added by this Act;*

1 (B) an immigration trial judge appointed
2 under section 601(c) of the Immigration and Na-
3 tionality Act, as added by this Act; or

4 (C) an interim immigration trial judge
5 under subsection (b)(2) of this section.

6 **SEC. 7. INSTITUTIONAL TRANSFER; CONTINUITY OF PRO-**
7 **CEEDINGS.**

8 (a) *EXISTING PRECEDENT.*—

9 (1) *IN GENERAL.*—Precedential decisions by the
10 Attorney General or the Board of Immigration Ap-
11 peals under title II of the Immigration and Nation-
12 ality Act (8 U.S.C. 1151 et seq.) that were issued be-
13 fore the application date of this Act shall continue to
14 serve as precedent in proceedings before the Immigra-
15 tion Courts unless explicitly overruled by such court.

16 (2) *RULES.*—To the extent that such rules are
17 consistent with this Act, the rules of the Attorney
18 General that were in effect before the application date
19 of this Act, shall remain in effect until amended or
20 revoked by the appellate division.

21 (b) *INSTITUTIONAL TRANSFER.*—

22 (1) *EXECUTIVE OFFICE FOR IMMIGRATION RE-*
23 *VIEW.*—

24 (A) *IN GENERAL.*—Except as provided in
25 subparagraph (B), all functions under the Exec-

1 *utive Office for Immigration Review on the date*
2 *that is the day before the application date of this*
3 *Act are transferred to the Immigration Courts on*
4 *the application date of this Act.*

5 (B) *EXCEPTIONS.*—

6 (i) *OCAHO.*—*The Office of the Chief*
7 *Administrative Hearing Officer and the*
8 *functions of the Executive Office for Immi-*
9 *gration Review that support such office*
10 *shall remain under the Department of Jus-*
11 *tice.*

12 (ii) *OTHER FUNCTIONS.*—*The func-*
13 *tions of the Executive Office for Immigra-*
14 *tion Review that are not necessary or ap-*
15 *propriate for transfer to the Immigration*
16 *Courts shall be reassigned to other agencies*
17 *within the Department of Justice or dis-*
18 *solved at the discretion of the Attorney Gen-*
19 *eral.*

20 (2) *TRANSFER AND ALLOCATION OF APPROPRIA-*
21 *TIONS AND PERSONNEL.*—*Except as provided in this*
22 *section, the personnel of the Executive Office for Im-*
23 *migration Review employed in connection with the*
24 *functions transferred by this section, and the assets,*
25 *liabilities, contracts, property, records, and unex-*

1 *pended balance of appropriations, authorizations, al-*
2 *locations, and other funds employed, held, used, aris-*
3 *ing from, available to, or to be made available to, the*
4 *Executive Office for Immigration Review, in connec-*
5 *tion with the functions transferred by this section,*
6 *subject to section 202 of the Budget and Accounting*
7 *Procedures Act of 1950, shall be transferred to the Im-*
8 *migration Courts on the application date of this Act.*
9 *Unexpended funds transferred pursuant to this para-*
10 *graph shall be used only for the purposes for which*
11 *the funds were originally authorized and appro-*
12 *priated.*

13 (3) *PENDING CASES.—*

14 (A) *IN GENERAL.—The enactment of this*
15 *Act shall not result in any loss of rights or pow-*
16 *ers, interruption of jurisdiction, or prejudice to*
17 *matters under title II of the Immigration and*
18 *Nationality Act (8 U.S.C. 1151 et seq.) which*
19 *are pending before the Board of Immigration*
20 *Appeals or an immigration judge on the applica-*
21 *tion date of this Act.*

22 (B) *TRANSFER.—All proceedings under title*
23 *II of the Immigration and Nationality Act (8*
24 *U.S.C. 1151 et seq.) which are pending before the*
25 *Board of Immigration Appeals or an immigra-*

1 *tion judge on the application date of this Act*
2 *shall be transferred to the Immigration Courts to*
3 *proceed before the trial division or the appellate*
4 *division as appropriate.*

5 **SEC. 8. REVIEW BY THE JUDICIAL CONFERENCE; CON-**
6 **SULTATION REQUIREMENTS.**

7 *The Judicial Conference of the United States shall con-*
8 *duct a review of adjudications in the United States Immi-*
9 *gration Courts at least once every 4 years, as part of its*
10 *comprehensive survey of business in the courts of the United*
11 *States conducted pursuant to title 28, section 331. At the*
12 *conclusion of its review, the Judicial Conference shall sub-*
13 *mit a report of its findings to the appellate division and*
14 *the Committee on the Judiciary of the House of Representa-*
15 *tives and the Committee on the Judiciary of the Senate.*
16 *The Committees shall cause to have such report printed in*
17 *the Congressional Record.*

18 **SEC. 9. TECHNICAL AND CONFORMING PROVISIONS.**

19 *(a) IN GENERAL.—The Immigration and Nationality*
20 *Act (8 U.S.C. 1101 et seq.) is amended—*

21 *(1) in section 101(b), by amending paragraph*
22 *(4) to read as follows:*

23 *“(4) The term ‘immigration judge’ means an immigra-*
24 *tion appeals judge or immigration trial judge appointed*

1 *to serve in the United States Immigration Courts estab-*
2 *lished under title VI.”;*

3 (2) *in section 238(a)(1)—*

4 (A) *by striking “Attorney General” and in-*
5 *serting “Immigration Courts”;* and

6 (B) *by striking “Service” and inserting*
7 *“Department of Homeland Security”;*

8 (3) *in section 238(a)(2), by striking “Attorney*
9 *General” each place such term appears and inserting*
10 *“Secretary of Homeland Security”;*

11 (4) *in section 238(a)(3)—*

12 (A) *by amending subparagraph (A) to read*
13 *as follows:*

14 *“(A) Notwithstanding any other provision of law, in*
15 *the case of any alien convicted of an aggravated felony, re-*
16 *moval proceedings, and any administrative appeals thereof,*
17 *shall be completed, to the extent possible, before the alien’s*
18 *release from incarceration for the underlying aggravated*
19 *felony.”;* and

20 (B) *in subparagraph (B), by striking “At-*
21 *torney General” and inserting “Secretary of*
22 *Homeland Security”;*

23 (5) *in section 238(a)(4)(A) by striking “Attorney*
24 *General” each place it appears and inserting “admin-*
25 *istrative council of the Immigration Courts”;*

1 (6) *in section 238(b)(1) by striking “Attorney*
2 *General” and inserting “immigration judge”;*

3 (7) *in section 238(b)(3)—*

4 (A) *by striking “Attorney General” and in-*
5 *serting “Secretary of Homeland Security”; and*

6 (B) *by striking “apply for” and inserting*
7 *“seek”;*

8 (8) *in section 238(b) by amending paragraph (4)*
9 *to read as follows—*

10 “(4) *In any proceeding under this subsection—*

11 “(A) *the alien shall—*

12 “(i) *be given reasonable notice of the*
13 *charges and of the opportunity described in*
14 *subparagraph (C);*

15 “(ii) *have the privilege of being rep-*
16 *resented (at no expense to the government)*
17 *by such counsel, authorized to practice in*
18 *such proceedings, as the alien shall choose;*
19 *and*

20 “(iii) *have a reasonable opportunity to*
21 *inspect the evidence and rebut the charges;*
22 *and*

23 “(B) *the immigration judge shall ensure*
24 *that—*

1 “(i) a determination is made for the
2 record that the individual upon whom the
3 notice for the proceeding under this section
4 is served (either in person or by mail) is, in
5 fact, the alien named in such notice; and

6 “(ii) a record is maintained for judi-
7 cial review.”;

8 (9) in section 238(b)(5)—

9 (A) by striking “Attorney General” and in-
10 serting “immigration judge”; and

11 (B) by striking “Attorney General’s” and
12 inserting “immigration judge’s”;

13 (10) by redesignating the second subsection (c) of
14 section 238 as subsection (d) and in the newly des-
15 ignated subsection (d)—

16 (A) by striking “Commissioner” in each
17 place such term appears and inserting “Sec-
18 retary of Homeland Security”;

19 (B) by striking “Attorney General” in each
20 place such term appears and inserting “Sec-
21 retary of Homeland Security”; and

22 (C) by striking “Service” in paragraph
23 (2)(A) and inserting “Secretary of Homeland
24 Security”;

1 (11) in section 239(a) by striking “Attorney
2 General” in each place such term appears and insert-
3 ing “Immigration Courts”;

4 (12) in section 239(b)(2) by striking “Attorney
5 General” and inserting “Immigration Courts”;

6 (13) in section 239(b)(3) by striking “Attorney
7 General” and inserting “immigration judge”;

8 (14) in section 239(d)(1) by striking “Attorney
9 General” and inserting “immigration judge”;

10 (15) in section 240(b)—

11 (A) by striking paragraphs (1) and (6);

12 (B) by redesignating paragraphs (2)
13 through (5) as paragraphs (1) through (4), re-
14 spectively;

15 (C) by redesignating paragraph (7) as
16 paragraph (5);

17 (D) by amending paragraph (1) as redesign-
18 ated by this paragraph to read as follows:

19 “(1) *FORM OF PROCEEDING.*—The proceeding
20 may take place—

21 “(A) in person; or

22 “(B) through video conference, subject to
23 rules promulgated under section 622(a)(5).”;

1 (E) in paragraph (2) as redesignated by
2 this paragraph, by striking “Attorney General”
3 and inserting “immigration judge”;

4 (F) in paragraph (3) as redesignated by
5 this paragraph—

6 (i) in the matter preceding subpara-
7 graph (A), by striking “, under regulations
8 of the Attorney General”; and

9 (ii) in subparagraph (A) by striking “,
10 at no expense to the Government, by counsel
11 of the alien’s choosing who is authorized to
12 practice in such proceedings” and inserting
13 “in accordance with section 623(a)”; and

14 (G) in paragraph (4)(A) as redesignated by
15 this paragraph—

16 (i) by striking “Service” and inserting
17 “Government”; and

18 (ii) by amending the last sentence to
19 read as follows: “Written notice shall be
20 considered sufficient for purposes of this
21 subparagraph if provided at the most recent
22 address provided under section
23 239(a)(1)(F).”;

1 (16) in section 240(c)(2), in the matter following
2 subparagraph (B), by striking “Attorney General”
3 and inserting “Secretary of Homeland Security”;

4 (17) in section 240(c)(3)—

5 (A) by striking “SERVICE” in the heading
6 and inserting “GOVERNMENT”; and

7 (B) by striking “Service” in each place such
8 term appears and inserting “Government”;

9 (18) in section 240(c)(7)(C)(iv)(II)—

10 (A) by striking “Attorney General” and in-
11 serting “immigration judge”; and

12 (B) by striking “Immigration and Natu-
13 ralization Service” and inserting “Secretary of
14 Homeland Security”;

15 (19) in section 240(c)(7)(C)(iv)(III)—

16 (A) by striking “Attorney General” and in-
17 serting “immigration judge”; and

18 (B) by striking “Attorney General’s” and
19 inserting “immigration judge’s”;

20 (20) in section 240(d) by amending the first sen-
21 tence to read as follows: “An immigration judge may
22 enter an order of removal stipulated to by the alien
23 (or the alien’s representative) and the Government.”;

1 (21) in section 242(a)(2)(A) by striking “Attor-
2 ney General” in each place such term appears and
3 inserting “Secretary of Homeland Security”;

4 (22) in section 242(a)(2)(B)(ii), by striking “At-
5 torney General” each place it appears and inserting
6 “the appellate division of the Immigration Courts”;

7 (23) in section 242(a), by adding at the end the
8 following:

9 “(6) VENUE.—For purposes of judicial review
10 under this section and section 625(d), the venue of a
11 proceeding before the court of appeals is in the judi-
12 cial circuit in which—

13 “(A) an immigration trial judge of the Im-
14 migration Court issued the original underlying
15 decision in the matter; or

16 “(B) the underlying administrative action
17 reviewed by the appellate division of the Court
18 occurred.”;

19 (24) in section 242(b)(2) by inserting “trial”
20 after “immigration”;

21 (25) in section 242(b)(3)(A)—

22 (A) by striking “Attorney General” in the
23 first sentence and inserting “United States”; and

24 (B) by amending the second sentence to
25 read as follows: “The petition shall be served on

1 *the Attorney General and on the officer or em-*
2 *ployee of the Department of Homeland Security*
3 *in charge of the district in which the final order*
4 *of removal under section 240 was entered.”;*

5 *(26) in section 242(b)(4)(D) by striking “Attor-*
6 *ney General’s” and inserting “immigration judge’s”;*

7 *(27) in section 242(b)(8) by striking “Attorney*
8 *General” in each place such term appears and insert-*
9 *ing “Secretary of Homeland Security”;*

10 *(28) in section 242(e)(2)(C) by striking “as pre-*
11 *scribed by the Attorney General”;*

12 *(29) in section 242(e)(3)(A)(ii) by striking “At-*
13 *torney General” and inserting “Secretary of Home-*
14 *land Security”;*

15 *(30) in section 242(g) by striking “Attorney*
16 *General” and inserting “Secretary of Homeland Se-*
17 *curity”;* and

18 *(31) in section 246(a)—*

19 *(A) by striking “Attorney General” each*
20 *place it appears and inserting “Secretary of*
21 *Homeland Security”;* and

22 *(B) by striking the second sentence and in-*
23 *serting the following: “Upon request of the indi-*
24 *vidual whose status has been rescinded, the Sec-*
25 *retary of Homeland Security shall refer such re-*

1 *scission to the United States Immigration Courts*
2 *for review in accordance with section*
3 *604(b)(1)(B).”.*

4 **(b) CONSTRUCTION OF EXISTING REFERENCES.**—*To*
5 *the extent consistent with this Act, each reference in the Im-*
6 *migration and Nationality Act (8 U.S.C. et seq.), or in any*
7 *rule prescribed thereunder—*

8 *(1) to the Board of Immigration Appeals or an*
9 *immigration judge, or any administrative appeal,*
10 *hearing, review, or other proceeding before such Board*
11 *or judge, shall be deemed to refer, as appropriate, to*
12 *the United States Immigration Courts established*
13 *under title VI of the Immigration and Nationality*
14 *Act, as added by this Act, to the appropriate division*
15 *of the Court, or to the corresponding proceedings*
16 *under this Act before such Court; and*

17 *(2) to the authority of the Attorney General to*
18 *prescribe rules with respect to the Executive Office for*
19 *Immigration Review, the Board of Immigration Ap-*
20 *peals, immigration judges, or administrative appeals,*
21 *hearings, reviews, or other proceedings conducted*
22 *under the Immigration and Nationality Act, by such*
23 *Office, Board, or judges, shall be deemed to confer*
24 *rulemaking authority on the appellate division of the*
25 *United States Immigration Courts established in title*

1 *VI of the Immigration and Nationality Act, as added*
2 *by this Act.*

3 *(c) FINANCIAL DISCLOSURE REPORTING.—Section 109*
4 *of the Ethics in Government Act of 1978 (5 U.S.C. App.)*
5 *is amended—*

6 *(1) in paragraph (8), by inserting “of the United*
7 *States Immigration Courts,” after “Court of Appeals*
8 *for Veterans Claims,”; and*

9 *(2) in paragraph (10), by inserting “United*
10 *States Immigration Courts,” after “Court of Appeals*
11 *for Veterans Claims,”.*

Union Calendar No. 468

117TH CONGRESS
2^D SESSION

H. R. 6577

[Report No. 117-649, Part I]

A BILL

To establish, under article I of the Constitution of the United States, a court of record to be known as the United States Immigration Courts.

DECEMBER 20, 2022

Reported from the Committee on the Judiciary with an amendment

DECEMBER 20, 2022

Committee on the Budget discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed